

Case 1:99-cv-09887-DLC Document 32 Filed 12/29/08 Page 1 of 3
 12/29/08
 ANDRX PHARMACEUTICALS, INC. ✓
 DEFENDANT FOR ANDRX (Andrx)
 12/29/08
 DATE: 12/29/08
 NY

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK

-----X
 ASTRA AKTIEBOLAG,
 AKTIEBOLAGET HÄSSE,
 KBI-E, INC., KBI, INC. and
 ASTRAZENECA LP
 Plaintiffs,
 v.
 ANDRX PHARMACEUTICALS, INC.
 Defendant.
 -----X

In re OMEPRAZOLE PATENT LITIGATION
 -----X
 M-21-81 (BSJ)
 MDL Docket No. 1291

SDNY
 DOCUMENT
 ELECTRONICALLY FILED
 12/29/08
 CASE #: 12/29/08

STIPULATION OF DISMISSAL OF CERTAIN CLAIMS

WHEREAS, plaintiffs (collectively "Astra") filed two Amended and Supplemented Complaints, dated March 22, 2001, in which Astra alleged, among other things that defendant Andrx Pharmaceuticals, Inc. ("Andrx") willfully infringed U.S. Patent Nos. 4,786,505 and 4,853,230 and should pay attorney's fees under 35 U.S.C. § 285 ("Astra's Willful Infringement Claims");

WHEREAS, Andrx filed an Amended Answer, Affirmative Defenses and Counterclaims on June 22, 2001, in which Andrx alleged violations of the antitrust laws and other laws in its counterclaims XXI, paragraphs 107 to 158; XXII, paragraphs 159 to 161; XXIII, paragraphs 162 to 164; XXIV, paragraphs 165 to 169; and XXV, paragraphs 170 to 172 ("Andrx's Original Claims");

WHEREAS, on November 21, 2008, Astra moved for leave to file a

Second Supplemental Complaint (“Astra Supplemental Complaint”);

WHEREAS, on November 21, 2008, Andrx moved for leave to file Amended and Supplemental Counterclaims (“Andrx’s Supplemental Counterclaims”) against Astra if Astra is allowed to file the Astra Supplemental Complaint (“Andrx’s Counterclaim Motion”);

WHEREAS, Astra does not wish to pursue Astra’s Willful Infringement Claims but wishes to pursue the Astra Supplemental Complaint; and

WHEREAS, Andrx does not wish to pursue Andrx’s Original Claims but wishes to pursue Andrx’s Supplemental Counterclaims if Astra is permitted to pursue the Astra Supplemental Complaint;

NOW THEREFORE, it is hereby stipulated and agreed by and between Astra and Andrx, as follows:

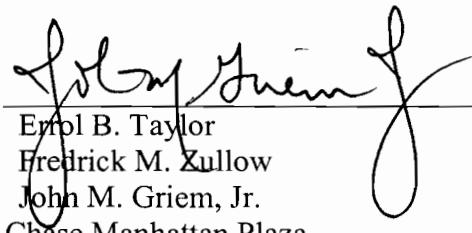
1. Astra hereby withdraws Astra’s Willful Infringement Claims with prejudice subject to Paragraph 3, below.

2. Andrx hereby withdraws Andrx’s Original Claims with prejudice subject to Paragraph 3, below.

3. Nothing in this Stipulation shall affect the Final Judgments entered by the Court in these cases. Nothing in this Stipulation shall affect Astra’s rights, if any, to pursue or seek to pursue the Astra Supplemental Complaint. Nothing in this Stipulation shall affect Andrx’s rights, if any, to pursue or seek to pursue Andrx’s Supplemental Counterclaims.

Dated: New York, New York
December 18, 2008

MILBANK, TWEED, HADLEY & McCLOY LLP

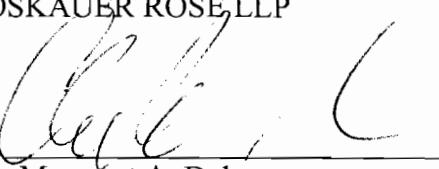
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*Attorneys for Defendant
Andrx Pharmaceuticals, Inc.*

SO ORDERED:


U.S.D.J. Barbara S. Jones